

D/L- 21
08/07/2025
Ct. No.-6
Aritra

C.O. 2409 of 2025

**Balageria Central Co-Operative
Bank Limited
Vs.
Mukesh Ali Khan & Anr.**

Mr. Madan Mohan Roy

...for the petitioners

This application under Article 227 of the Constitution of India is at the instance of the defendant and is directed against an order being No.14 dated May 19, 2025 passed by the learned Civil Judge (Jr. Div.), 1st Court, Contai, District-Purba Medinipur.

By the order impugned, the application under Order 7 Rule 11 (d) of the Code of Civil Procedure stood rejected.

The learned advocate appearing for the petitioner submits that the suit is barred under the provisions of Section 102(4) of the West Bengal Co-Operative Societies Act, 2006. He submits that the property has been mortgaged by the defendant No.1, who is the sister of the plaintiff in favour of the defendant No.2, is the bank.

After going through the averments made in the plaint, this Court finds that the plaintiff/opposite party herein has filed a suit alleging that his sister has defrauded him and has fraudulently obtained a deed of gift in her favour. It was further stated in the plaint that the defendant No.1 secured a loan from the defendant

No.2/bank by using the said deed as a collateral security. The petitioner has prayed for declaration of his title over the suit property and has prayed for an injunction restraining the defendants from disturbing the peaceful possession of the petitioner in respect of the suit property.

After going through the reliefs claimed in the plaint, this Court finds that the declaration sought for with regard to declaration of title in respect of an immovable property wherein an allegation of fraud has been made out against a private party while obtaining a deed of gift cannot fall within the expression “any dispute concerning the management or business or affairs of a co-operative society.”

Even if for argument sake it is accepted that some of the reliefs claimed in the plaint is barred under the provisions of a relevant statute, since the civil court is competent to grant other reliefs as observed hereinbefore, the plaint cannot be rejected in part.

The learned trial judge has assigned cogent reasons for rejecting the application under Order 7 Rule 11(d) of the Code of Civil Procedure, this Court does not find any reason to interfere with the same.

Accordingly, CO 2409 of 2025 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)